Dearborn Gage Company, General Gage Division and Precision Gage/Dearborn, LLC *and* Local 157, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO, and Its Successor Local 174. Cases 7–CA–44113 and 7–CA–44572

March 31, 2006

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS SCHAUMBER AND WALSH

On November 4, 2002, Administrative Law Judge Karl H. Buschmann issued the attached decision. The General Counsel and the Charging Party each filed exceptions, supporting briefs, and reply briefs, and the Respondents Dearborn Gage and Precision Gage each filed answering briefs. The Respondents each filed cross-exceptions and supporting briefs, and the General Counsel and the Charging Party each filed answering briefs.[1]

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions, cross-exceptions, and briefs and has decided to affirm the judge's rulings, findings, and conclusions[2] and adopts the recommended Order of the administrative law judge as modified below.[3]

AMENDED REMEDY

Having found that the Respondents have engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order them to cease and desist from those practices and to take certain affirmative action designed to effectuate the policies of the Act.

As a result of Dearborn Gage's unlawful failure to bargain in good faith with the Charging Party about the effects of its decision to close the plant, the terminated employees have been denied an opportunity to bargain through their collective-bargaining representative. Meaningful bargaining cannot be assured until some measure of economic strength is restored to the Charging Party. A bargaining order alone, therefore, cannot serve as an adequate remedy for the unfair labor practices committed.

Accordingly, we deem it necessary, in order to effectuate the purposes of the Act, to require Dearborn Gage to bargain with the Charging Party concerning the effects of closing its facility on its employees, and shall accompany our order with a limited backpay requirement designed both to make whole the employees for losses suffered as a result of the violations and to re-create in some practicable manner a situation in which the parties' bargaining position is not entirely devoid of economic consequences for Dearborn Gage. We shall do so by ordering Dearborn Gage to pay backpay to the terminated employees in a manner similar to that required in *Transmarine Navigation Corp.,* supra, as clarified by *Melody Toyota*, 325 NLRB 846 (1998).

Thus, Dearborn Gage shall pay its terminated employees backpay at the rate of their normal wages when last in Dearborn Gage's employ from 5 days after the date of

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[1] The Charging Party argues that Dearborn Gage's cross-exceptions fail to comply with Sec. 102.46 of the Board's Rules and Regulations, because the cross-exceptions do not specifically set forth the question to which exception is taken. We find that Dearborn's cross-exceptions and brief are in substantial compliance with the Board's Rules. Accordingly, we shall consider them on their merits.

[2] In adopting the judge's conclusion that Dearborn Gage violated Sec. 8(a)(5) and (1) by failing to notify the Charging Party of the plant closure and failing to bargain over the effects of the closure, we reject the Respondents' argument that there should be no violation because the decision to close the plant was "immediate" and "immutable" in light of the fact that Bank One, the secured creditor of all of Dearborn Gage's assets, indicated it was liquidating those assets. It is well settled that a union must be given an opportunity to bargain about the effects on its members of a termination of an employer's operation "in a meaningful manner and at a meaningful time." *First National Maintenance Corp. v. NLRB*, 452 U.S. 666, 681–682 (1981). An employer must therefore give the union representing its employees timely notice and the opportunity to bargain before a planned closure, and, as relevant, this requirement has been excused only in cases of emergency. See, e.g., *Reeves, Bros.,* 306 NLRB 610, 612 (1992), enfd. 990 F.2d 1252 (5th Cir. 1993). Under all the circumstances described in the judge's decision, we find no emergency excusing Dearborn Gage from the prior notice requirement. Furthermore, emergency does not excuse the requirement that the employer bargain about the effects of the closure. See *National Terminal Baking Corp.,* 190 NLRB 465, 466 (1971). As found by the judge, Dearborn Gage rejected all of the Charging Party's oral and written requests to bargain over the effects of the closure, and thus violated Sec. 8(a)(5) and (1).

Chairman Battista finds that, by notifying Union Chief Steward Brenda Smelewski of the plant closure on April 18, 2001, the Respondent did provide notice to the Union. However, the Respondent knew of the Bank's position at least 1 week before April 18. If notice had been given at that time, there would have been an opportunity to bargain on effects at a very critical time. Further, the steward notified other union officials on April 19, and a request to bargain was promptly made. The Respondent refused the request.

[3] The General Counsel and the Charging Party have excepted to the judge's recommended Order and remedy, noting that the judge appeared to make various inadvertent errors, such as only applying the Order to Precision Gage, failing to order that notices be mailed to the last known address of any unit employee who was employed by Dearborn Gage on April 18, 2001, and not ordering that Precision Gage remedy the unfair labor practices of Dearborn Gage to the extent that Dearborn Gage fails to do so. The General Counsel and the Charging Party also except to the judge's failure to provide the Board's standard remedy for failures to bargain over the effects of plant closures under *Transmarine Navigation Corp.,* 170 NLRB 389 (1968). As to the *Transmarine* remedy, in light of our finding that the Respondents have not established that Dearborn Gage closed the plant in an emergency, we reject the Respondents' argument that such a remedy is not appropriate. We find merit in this exception and to the others as well. We shall conform the remedy, recommended Order, and notice accordingly.

this Decision and Order until occurrence of the earliest of the following conditions: (1) the date Dearborn Gage bargains to agreement with the Charging Party on those subjects pertaining to the effects of the closing of its facility on its employees; (2) a bona fide impasse in bargaining; (3) the Charging Party's failure to request bargaining within 5 business days after receipt of this Decision and Order, or to commence negotiations within 5 business days after receipt of Dearborn Gage's notice of its desire to bargain with the Charging Party[4]; and (4) the Charging Party's subsequent failure to bargain in good faith, but in no event shall the sum paid to these employees exceed the amount they would have earned as wages from the date on which Dearborn Gage terminated its operations to the time they secured equivalent employment elsewhere, or the date on which Dearborn Gage shall have offered to bargain in good faith, whichever occurs sooner; provided, however, that in no event shall this sum be less than the employees would have earned for a 2-week period at the rate of their normal wages when last in Dearborn Gage's employ. Backpay shall be based on earnings which the terminated employees would normally have received during the applicable period, less any net interim earnings, and shall be computed in accordance with *F. W. Woolworth Co.,* 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded,* 283 NLRB 1173 (1987).

It is further necessary that Dearborn Gage be ordered to comply with the Charging Party's April 20 and October 17, 2001 information requests.

We also agree with the judge that Precision Gage is a successor employer to Dearborn Gage, that it violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with the Charging Party and when it failed to furnish the Charging Party with the requested relevant information sought on October 17, that Olof Ellstrom (president of both of the Respondents) was aware of the unfair labor practices of both of the Respondents, and that accordingly Precision Gage should be jointly and severally liable for the unfair labor practices of Dearborn Gage as the judge found. See *Golden State Bottling Co. v. NLRB,* 414 U.S. 168 (1973).

In addition, we shall order Precision Gage to recognize and, on request, bargain with the Charging Party as the representative of its bargaining unit employees. It is further necessary that Precision Gage be ordered to comply with the Charging Party's October 17 information request.

In view of the fact that Dearborn Gage's facility is currently closed, we shall order Dearborn Gage to mail a copy of the attached notice to the Charging Party and to the last known addresses of its former employees in order to inform them of the outcome of this proceeding.

[4] *Melody Toyota,* supra.

ORDER

A. The National Labor Relations Board orders that the Respondent Dearborn Gage Company, General Gage Division, Garden City, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to notify the Union about the plant closure and to bargain about its effects on the employees with the Union, as the exclusive bargaining representative of the employees in the following unit:

> All production and maintenance employees employed by the Respondent at its facility, including shipping and receiving employees, and truck drivers; but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

(b) Failing to comply with the Union's information requests of April 20 and October 17, 2001.

(c) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union concerning the effects on unit employees of its decision to cease operations at its Garden City, Michigan facility, and put in writing and sign any agreement reached as a result of such bargaining.

(b) Furnish to the Union in a timely manner the information requested by it on April 20 and October 17, 2001.

(c) Within 14 days after service by the Region, mail copies of the attached notices marked "Appendix A" and "Appendix B."[5] Copies of the notices, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be duplicated and mailed, at the Respondent's expense, to all current employees and former employees employed by the Respondent at any time since April 18, 2001.

B. The National Labor Relations Board orders that the Respondent Precision Gage/Dearborn LLC, Canton, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with the Union as the collective-bargaining representative of its employees in the following appropriate unit:

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ``Posted by Order of the National Labor Relations Board'' shall read ``Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

> All production and maintenance employees employed by the Respondent at its facility, including shipping and receiving employees, and truck drivers; but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

(b) Failing to comply with the Union's information request of October 17, 2001.

(c) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Recognize and, on request, bargain in good faith with the Union as the collective-bargaining representative of its bargaining unit employees.

(b) Furnish to the Union in a timely manner the information requested by it on October 17, 2001.

(c) Within 14 days after service by the Region, post at its facility in Canton, Michigan, copies of the attached notices marked "Appendix A" and "Appendix B."[6] Copies of the notices, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 18, 2001.

C. The National Labor Relations Board orders that the Respondents Dearborn Gage Co., General Gage Division and Precision Gage/Dearborn LLC, Garden City and Canton, Michigan, their officers, agents, successors, and assigns, shall take the following affirmative action necessary to effectuate the policies of the Act.

(a) Jointly and severally make whole bargaining unit employees for any losses they may have suffered as a result of Dearborn Gage's failure and refusal to bargain with the Union concerning the effects of its termination of operations, in the manner set forth in the remedy section of this decision.

(b) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondents have taken to comply.

Dated, Washington, D.C. March 31, 2006

Robert J. Battista,	Chairman
Peter C. Schaumber,	Member
Dennis P. Walsh,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain with Local 157, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO and its successor, Local 174 concerning the effects of our decision to terminate operations.

WE WILL NOT refuse to furnish to the aforesaid union information relevant to bargaining.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, on request, bargain with the Union concerning the effects of our decision to terminate our operations.

[6] See fn.5, infra.

WE WILL furnish to the Union in a timely manner the information requested by it on April 20 and October 17, 2001.

WE WILL make whole bargaining unit employees for any losses they may have suffered as a result of our failure and refusal to bargain with the Union concerning the effects of our termination of operations.

DEARBORN GAGE COMPANY, GENERAL GAGE DIVISION

APPENDIX B

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with Local 157, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO and its successor, Local 174 as the collective-bargaining representative of our employees in the following appropriate unit:

> All production and maintenance employees employed by us at our facility, including shipping and receiving employees, and truck drivers; but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

WE WILL NOT refuse to furnish to the aforesaid union information relevant to bargaining.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL recognize and, on request, bargain in good faith with the Union as the collective-bargaining representative of our bargaining unit employees and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit.

WE WILL furnish to the Union in a timely manner the information requested by it on October 17, 2001.

WE WILL make whole bargaining unit employees for any losses they may have suffered as a result of Dearborn Gage's failure and refusal to bargain with the Union concerning the effects of its termination of operations.

PRECISION GAGE/DEARBORN, LLC

Dwight R. Kirksey and *Darlene M. Haas, Esqs*., for the General Counsel.

A. Read Cone III, Esq. (Dean & Fulkerson, P.C.), of Troy, Michigan, for Respondent Precision Gage/Dearborn, LLC.

Paul E. Pedersen, Esq. (Pedersen, Keenan, King, Waschsberg & Andrzejak, P.C.), of Commerce Township, Michigan, for Respondent Dearborn Gage Company.

DECISION

STATEMENT OF THE CASE

KARL H. BUSCHMANN, Administrative Law Judge. This case was tried on May 14, 15, and 16, 2002, in Detroit, Michigan. Pursuant to Section 10(b) of the National Labor Relations Act (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board), the General Counsel consolidated Cases 7–CA–44113 and 7–CA–44572 filed by the Charging Party, Local 157, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO, and its successor Local 174 (the Union). The charge in Case 7–CA–44113 was filed on June 12, 2001. The charge in Case 7–CA–44572 was filed on November 20, 2001. The charge in Case 7–CA–44113 was filed against Dearborn Gage Company (Dearborn or Respondent) and alleges that Dearborn refused to bargain and refused to provide relevant and necessary requested information regarding a plant shutdown and layoffs. The charge in Case 7–CA–44572 was filed against Dearborn and Precision Gage/Dearborn LLC[1] (Precision or Respondent) and alleges that Precision is a perfectly clear successor to Dearborn and that Precision is liable for any unfair labor practices committed by Dearborn. The charge in Case 7–CA–44572 also alleges that Precision unilaterally changed terms and conditions of employment, it refused to bargain with the Union, and that it and Dearborn refused to provide relevant and necessary requested information.

FINDINGS OF FACT

I. JURISDICTION

At all material times before it went out of business, Respondent Dearborn Gage Company (Respondent Dearborn or Dearborn), was a corporation with an office and place of business at 32330 Ford Road, Garden City, Michigan (the Garden City facility). Respondent Dearborn was principally engaged in the manufacture and nonretail sale of industrial gauges. Respondent Dearborn admits, and I find, that in conducting its business operations during 2000, it derived gross revenues in excess of $500,000 and shipped goods in excess of $50,000 from its Garden City, Michigan facilities to points directly outside the State of Michigan. Respondent Dearborn further admits, and I find, that it is an employer engaged in commerce with the meaning of Section 2(2), (6), and (7) of the Act.

[1] The consolidated complaint, transcript, and submitted briefs by the General Counsel and the Union cite Precision's full name as "Precision Gage–Dearborn LLC." However, the actual Operating Agreement establishing Precision as an entity names the Company as "Precision Gage/Dearborn LLC."

At all material times after it commenced business in July 2001, Respondent Precision Gage/Dearborn LLC (Respondent Precision or Precision) was a limited liability company with an office and place of business at 32330 Ford Road, Garden City, Michigan, until it moved to 8680 N. Haggerty Road, Canton, Michigan (the Canton facility). Respondent Precision admits, and I find, that in conducting its business operations since it commenced business, it derived gross revenues in excess of $500,000 and shipped goods valued in excess of $50,000 from its facilities in Garden City and Canton, Michigan, to points located directly outside the State of Michigan. Respondent Precision further admits, and I find, that it is an employer engaged in commerce with the meaning of Section 2(2), (6), and (7) of the Act.

At all material times, each Charging Party Union and its International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO (the Union) has been a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

Dearborn Gage Company was a family run business founded in 1957. It ceased normal operations on June 26, 2001. At the time of closing, Olof Ellstrom,[2] the founder's grandson, was the president of Dearborn. His brother, Richard Ellstrom, was Dearborn's vice president. Mario Sciberras was Dearborn's chief financial officer and William Valentine was the manager of operations. Olof Ellstrom, Richard Ellstrom, and Mario Sciberras each owned 33.33 percent of the Company. On June 26, 2001, Sciberras' shares were transferred to Olof Ellstrom, making Olof and Richard Ellstrom the sole owners of the Dearborn Gage Company.

From 1960 until it ceased operations, Dearborn recognized the Union as the exclusive bargaining representative of unit employees. The bargaining unit consisted of:

> All production and maintenance employees in the Garden City facility, including shipping and receiving employees, and truckdrivers. Excluded from the bargaining unit were office clerical employees, professional employees, guards and supervisors as defined in the Act.

As of April 18, 2001, Dearborn employed 29 unit employees.[3] (GC Exh. 5.)

The last collective-bargaining agreement (CBA) between Dearborn and the Union[4] became effective September 15, 2000, and was to endure until September 14, 2004. UAW International Representative Greg Drudi negotiated on behalf of the Union. Olof Ellstrom, Mario Sciberras, and William Valentine negotiated on behalf of Dearborn. The CBA named Brenda Smelewski as the chief steward and Thomas Clark and Bruce Mayotte as committee persons at Dearborn's facility.

Towards the beginning of March 2001,[5] Ellstrom was informed by Bank One (the Bank), the secured creditor of all of Dearborn's assets,[6] that it was concerned about Dearborn's financial status and inability to make loan payments.[7] The Bank told Ellstrom that Sciberras provided false accounting reports to the Bank, and also that Dearborn owed approximately $500,000 in back taxes to the Internal Revenue Service. Ellstrom claimed that he was unaware of Sciberras' accounting practices and the Company's indebtedness to the IRS.

Around April 11, 2001, officials at the Bank told Ellstrom that the Bank did not believe Dearborn could survive its financial state and that it was going to liquidate all of Dearborn's assets.[8] On April 18, 2001, Ellstrom informed a small group of employees, including Chief Steward Smelewski that the plant was shutting down and that this would be the last day of work for the majority of them. He told them that the Bank was taking over the operations of the Company and that it wanted to retain a few employees during the wind-down to complete selected ongoing orders. The announcement came as a surprise to the employees as none had been told that the Company was even in serious financial distress.

Although International Representative Greg Drudi met with Valentine at Dearborn's facility to discuss on going grievance issues [9] on April 11, 2001, Valentine failed to tell Drudi that the company was in financial distress and was going to shut down. In fact, Dearborn made no mention at all of the meetings it was conducting with the Bank to union officials. The Union did not learn of the Company's shutdown, and mass layoff of unit employees, until Chief Steward Smelewski contacted Drudi on the morning of April 19, 2001, to apprise him of the situation at Dearborn. Drudi was immersed in negotiations involving a different unit at that time and could not immediately drive to Garden City to meet her. Drudi asked Smelewski to find out all she could about the closure and arrange a meeting between the Union and Dearborn. He also told her to contact Local President Bruno Duchaine.

After hearing from Smelewski that Dearborn was closing and that the majority of unit employees were laid off without consultation with the Union, Duchaine also asked Smelewski to set up a meeting between the Union and Ellstrom to discuss the plant closure. That same day, and in coordination with Drudi,

[2] Two Ellstroms are mentioned in this decision, Olof Ellstrom and Richard Ellstrom. Olof Ellstrom will be referred to as Ellstrom or Olof Ellstrom. Richard Ellstrom will be referred to as Richard Ellstrom.

[3] There were 38 unit employees at Dearborn in March 2001.

[4] The CBA indicated that Respondent Dearborn recognized the International Union, and its Local 157 as the exclusive bargaining representative of unit employees. On September 7, 2001, Local 157 President Bruno Duchaine faxed and mailed a letter to the offices of all the Local's units informing management that Local 157 had changed its name to Local 174.

[5] Ellstrom testified that he first learned of Dearborn's financial status in "the early part of March." (Tr. 381.)

[6] In addition to being indebted to the Bank as a co-owner of Dearborn, Ellstrom was also indebted to Donald Brooks (an investor in Precision Gage/Dearborn LLC) in the amount of $100,000. That loan was outstanding at the time of the trial.

[7] Olof Ellstrom, Richard Ellstrom, and Mario Sciberras were personal guarantors of the loans.

[8] The Bank ordered Ellstrom to dismiss Sciberras from his position with the Company. Ellstrom did not immediately act. Sciberras was present at the Garden City facility and working in his capacity as a Dearborn official when he discussed union matters with International Representative Greg Drudi on April 20, 2001. Sciberras was not officially bought out by Ellstrom until June 26, 2001.

[9] Drudi met with Valentine to discuss four grievance issues filed by the Local against Dearborn. They involved previous layoffs that occurred in March 2001, and retirement benefits. Valentine discussed three of the grievances, but refused to discuss the retiree benefits grievance. Valentine told Drudi that retiree benefits was an area handled by Sciberras and that Drudi would have to speak with him regarding the final grievance.

Duchaine mailed and faxed a letter to Ellstrom and Vice President Richard Ellstrom demanding a meeting in order to bargain over the impact of the closure on employees, and to discuss money owed to employees for vacation, personal days, unpaid wages, insurance continuation during the layoff, 401(K) and pension contributions, and retiree's insurance. The letter further stated that the meeting must occur before any official closing and before any equipment was moved.

On April 20, 2001, not having received a response from Dearborn himself, Duchaine asked Smelewski if she had any response from Dearborn. Smelewski told Duchaine that Ellstrom did not believe he had a duty to negotiate with the Union. She then resigned from her position as chief steward citing a conflict of interest because her husband was still a salaried employee of Dearborn. That same day, after speaking with Smelewski, Duchaine called Ellstrom's office. His secretary answered the call, put Duchaine on hold, came back on the line, and told him that any further communication should be directed to the Bank. Duchaine was not able to speak directly to Ellstrom.

Duchaine then sent another letter to Dearborn on April 20, 2001. In it, he again demanded a meeting to negotiate the effects of the closing on unit employees and asked for information regarding the Company's financial status and the circumstances surrounding the closing. Specifically, Duchaine asked Dearborn to provide information on:

1. Unpaid employee wages at time of closing.
2. Vacation time and wages owed to employees.
3. Employee personal days.
4. Whether Dearborn intended to pay health insurance premiums.
5. Whether any outside firm, company, or agency was involved in or connected to the closing.
6. Whether there was a sale agreement regarding the facility, and the details if there was such an agreement.

The letter then asked for copies of documents related to the employees' pension plans, actuarial evaluations, various Department of Labor forms, and other documents related to employee insurance. (GC Exh. 1(1)A.) The Union did not receive a response to either the April 19 or 20, 2001 letter.[10]

On April 20 or 21, 2001, Drudi called Sciberras to discuss the closure and arrange a meeting to bargain over the closure's effect on employees. Sciberras told Drudi that the Bank had taken over the business and that it intended to liquidate all its assets. Sciberras told Drudi that there was no money to bargain with. Sciberras did not agree to a meeting.

Sometime between April 23 and 25, 2001, Drudi called Ellstrom. Ellstrom essentially repeated what Sciberras said earlier. Ellstrom told Drudi that Dearborn was "out of formula" in its loan payments to the Bank and that the Bank was effecting a secured lender takeover. He said that the Bank was now calling the shots and forcing Dearborn to liquidate all its assets. Ellstrom refused to discuss the grievance issues already filed against Dearborn, but assured Drudi that employees would retain health care benefits until the end of the month, and that he would make sure employees were paid their earned wages and accumulated vacation time. Nonetheless, Drudi demanded a meeting to discuss the plant closure, but Ellstrom refused.

Ellstrom claimed that between April 18 and June 26, 2001, the Bank controlled the daily operations of Dearborn. He stated that the groups of five or six unit employees were kept on to finish a few large ongoing orders at the direction of the Bank. Also, a Bank auditor regularly visited the Garden City facility to make certain that operations were being performed as ordered by the Bank.

The Bank told Ellstrom to dismiss Sciberras from his position with the Company during its first liquidation meeting with Ellstrom in the early part of March 2001. However, Ellstrom did not immediately act. Sciberras was present at the Garden City facility and working in his capacity as a Dearborn official when he discussed union matters with Drudi on April 20, 2001. Sciberras was not officially removed as a co-owner of Dearborn until June 26, 2001 (the same day Dearborn ceased normal operations).

On May 10, 2001, Drudi sent a letter to Ellstrom indicating that he still had not received an answer to any of the Union's four grievances against Dearborn and that the Union intended to bring two of those grievances to arbitration. On June 22, 2001, Drudi sent another letter to Dearborn repeating the message expressed in the last letter. Sometime during the last full week of June[11] (June 24–30, 2001), Valentine called Drudi to discuss the issues raised in the May 10, 2001 letter. Drudi told Valentine that he needed an answer to the grievances. On July 9, 2001, Valentine faxed a letter to the Union referencing the grievances. However, it did not specifically address any of the issues raised.

On May 11, 2001, a little more than 3 weeks after telling Dearborn employees that Dearborn was shutting down and over a month before Dearborn actually closed shop, the Operating Agreement of Precision Gage/Dearborn LLC was signed and the new Company brought into existence. The Agreement was signed by Ellstrom (as president of Precision), Donald R. Brooks (trustee of the Donald R. Brooks Revocable Trust), Thomas M. Wheeler (trustee of the Thomas M. Wheeler Revocable Trust), Paul Oster, and Douglas S. Soifer (trustee of the Douglas S. Soifer Revocable Trust). As per the Agreement, Ellstrom, as president, also assumed the responsibilities of the chief executive officer because one was not specifically named. The Brooks Trust, the Wheeler Trust, Oster, and the Soifer Trust were co-owners of Precision with each owning 45, 45, 5, and 5 percent, respectively.

Five or six Dearborn unit employees and most of the nonunit administrative staff were still employed by Dearborn at the time Precision's Operating Agreement was signed. Dearborn employees' checks were issued by Dearborn using Dearborn checks. Although an auditor from the Bank was sometimes present at the facility, Dearborn officials directed the day-to-day assignments of Dearborn employees.

Through out Dearborn's "wind down" period (April 18—June 26, 2001), Dearborn officials repeatedly assured several unit employees that the end of Dearborn was not necessarily the end of their employment. On April 18, 2001, Dearborn unit employee Ed Wojtan went to Ellstrom's office to ask if he could continue storing some of his personal property on Dearborn property until after he returned from a vacation the follow-

[10] Also on April 20, 2001, the Union filed an unfair labor practice charge against Dearborn. This charge was later withdrawn and/or amended to become the June 12, 2001 charge in Case 7–CA–44113.

[11] Drudi could not provide the exact date but testified that he spoke to Valentine while he was attending a week long training seminar in Traverse City during the last full week of June.

ing week. Ellstrom told Wojtan that he could, and then said, “not to go too far. We have something in the works . . . when you get back from vacation, come back to work.” (Tr. 83.) Wojtan testified that he continued working at Dearborn until May 19, 2001. During that time Ellstrom and Valentine assured Wojtan, and other unit employees that “something was in the works.” (Tr. 92.) Ellstrom told Wojtan that there was a new building, and equipment was being transferred. On May 19, 2001 (and after Precision was formed), Ed Wojtan and another unit employee Steve Mersino were laid off. Ellstrom told them not to worry because they would be called back to work for the “new company.” (Tr. 94.) Unit employee Desmond Hanson was told that new investors had been found.

On July 16, 2001, a month after Dearborn actually suspended operations, Precision employees started arriving to work at the same Garden City facility that Dearborn previously used. Precision’s job classifications were essentially the same as those used by Dearborn except for a few cosmetic alterations. (See GC Exhs. 3, 10, and 26.) As of August 6, 2001, Precision employed 12 employees who would have qualified as unit employees under the Union’s CBA with Dearborn.

All 12 of those employees were former Dearborn unit employees. As of May 2002, Precision employed 19 individuals, who would have been considered unit employees under the Dearborn CBA, 14 of those employees were formerly employed by Dearborn. These 14 employees performed the same function at Precision as they did at Dearborn and were paid approximately the same amount as they were paid at Dearborn with only a few minor changes.

The management at Precision was essentially the same as that of Dearborn. Olof Ellstrom was president of Dearborn and is the president of Precision. Richard Ellstrom was the vice president of Dearborn and head of sales. Richard Ellstrom is now the sales manager of Precision. Valentine was the vice president of operations at Dearborn and is now the vice president of operations at Precision. Bob Bower was a foreman at Dearborn and is now a foreman at Precision. Sixteen of the twenty-five Precision employees who would have been considered nonunit employees under the Dearborn CBA were former nonunit Dearborn employees.

Of the 112 Precision customers, 111 were formerly Dearborn customers. All suppliers to Precision were suppliers to Dearborn. Precision manufactures essentially the same products that were once manufactured by Dearborn, with the exception of a gauge used in missile test systems. The missile gage comprised a substantial portion of Dearborn’s business towards the last few months of its existence.

In December 2001, Precision purchased all of Dearborn’s equipment and moved out of the Garden City facility. With the exception of two pieces of equipment, all of Precision’s current equipment was formerly Dearborn’s. (GC Exh. 23.)

Precision’s policy manual contains a letter from President Ellstrom. In it, Ellstrom refers to a “history of good employee relations.” (GC Exh. 10.) This manual was given to employees at least as early as August 23, 2001, a little more than 1 month after Precision began operations.

The manual also outlines several Precision benefits that are significantly different from those enjoyed by unit employees at Dearborn. For example, at Dearborn employees were paid overtime for time in excess of 8 hours per day. At Precision, employees only accrue overtime for time in excess of 40 hours per week. Precision employees are considered “at will employees” and have no seniority rights. Dearborn unit employees enjoyed seniority rights. Precision employees have less vacation time than Dearborn employees. Precision does not give its employees a paid vacation day for the day after Thanksgiving, as Dearborn did. Precision does not offer company contributions to its employees’ 401(k) plans. Precision also provides less in medical benefits than Dearborn did. (GC Exh. 20.)

On June 12, 2001, the Union amended its April 20, 2001 unfair labor practice charge against Dearborn to include the recent events. The amended charge alleged that Dearborn refused to bargain and refused to provide relevant and necessary requested information regarding a plant shutdown and layoffs. The Board issued a complaint against Dearborn on August 31, 2001.

On September 13, 2001, Ellstrom sent Drudi a letter in response to the complaint. Ellstrom made no mention of Precision in the letter. Around this time the Union started to hear of Precision’s emergence and that it employed many former Dearborn unit employees. Drudi tried and Ellstrom tried to contact each other by telephone, but were unable to get a hold of one another. On October 17, 2001, Drudi wrote to Ellstrom and alleged that Precision was the alter ego of Dearborn. On November 5, 2001, Ellstrom, in his personal capacity, wrote to Drudi from his vacation home address in Boyne City using his personal stationary and denied the allegation.

On November 16, 2001, the Union filed its charge against Dearborn and Precision alleging that Precision unilaterally changed terms and conditions of employment of unit employees, it refused to bargain with the Union, and that it and Dearborn refused to provide relevant and necessary requested information.

III. THE ARGUMENT

A. Plant Closure Without Notice or Bargaining

Dearborn, which had a longstanding bargaining relationship with the Union as the collective-bargaining representative of Dearborn’s production and maintenance employees and which operated under a collective-bargaining agreement effective until September 14, 2004, never officially notified the Union of Dearborn’s plant closure. Yet Dearborn’s chief executive and owner knew of the Company’s precarious financial condition as early as March or early April 2001 and was notified by the Bank a week prior to April 18, 2001, that the Bank would be in control of Dearborn. Indeed, already after the first or second meeting with the Bank, Ellstrom fired Mario Sciberras, vice president and chief financial officer, at the direction of the Bank. Sciberras was blamed for having submitted false reports to the Bank. Most of the employees were suddenly laid off. Not until April 19, 2001, was the Union made aware of the events by Brenda Smelewski, an employee and chief steward. She telephoned Greg Drudi, international union representative, to inform him that 24 of the 29 unit employees were laid off and that 5 employees were still employed as a skeleton crew. At Drudi’s behest, Smelweski also notified Bruno Duchaine, president of Local 157, on April 19, 2001. Dearborn still had not given official notice to the Union of the plant closure. On the same day, the Union faxed and mailed a letter to the Company demanding to bargain over the impact of the plant closing. (GC Exh. 6.) On April 20, 2001, the Union made several oral requests to meet and to bargain. The Company rejected all oral and written requests. The Union sent another letter, dated April 20, 2001, requesting information and demanding bargaining. All attempts failed. In short, the Respondent had failed to notify the Union, it had refused to bargain, and it rejected the request to provide relevant information. The argument that the Union should have bargained with the Bank or request the information from the Bank ignores the fact that the Respondent's management was still in place and functional in all other respects.

Board law is clear as expressed in *Burgmeyer Bros., Inc.*, 254 NLRB 1027, 1028 (1981):

> The Board, with court approval, has long held that when an employer decides to terminate or close its entire operation it must, once that decision is made, afford the employees' collective-bargaining representative the opportunity to bargain over the impact and effect of that decision on unit employees. Furthermore, an employer is not relieved of its obligation to bargain over the effects of its decision to close merely because it has become a debtor-in-possession under the Bankruptcy Act and believes that, as a result thereof, it would be financially unable to meet any of the Union's bargaining demands.

Accordingly, the Respondent violated Section 8(a)(5) and (1) of the Act, as alleged in the complaint, when it failed to notify the Union and refused to bargain over the effects of the plant closure. See also *First National Maintenance Corp. v. NLRB,* 452 U.S. 666, 681 (1981).

B. Information Request

The complaint further alleges that the Respondent Dearborn and Respondent Precision failed and refused to furnish the Union with information relevant to its role as bargaining representative of the employees. In *Howard University,* 290 NLRB 1006 (1988), the Board held that the employer's obligation extends also to information required to process a grievance so long as the probability exists that the desired information is relevant. The record shows that the Union directed an information request, dated April 20, 2001, which in several paragraphs clearly described the information sought relevant to its ability to negotiate an agreement or an understanding involving the Respondent's plans to close the plant. (GC Exh. 7.) Drudi and Ellstrom had discussions over the telephone during which Ellstrom provided scant information. The parties "discussed contractual entitlements, such as wages, vacations, personal days, insurance," but the Respondent failed to furnish the requested information.

Subsequently, by certified letter of October 17, 2001, addressed to Dearborn Gage-Precision Gage, the Union requested additional information. (GC Exh. 17.) This information request concerned the interrelationship, if any, between Dearborn and Precision and the issue, whether Precision was the alter ego of Dearborn. Ellstrom responded by letter of November 5, 2001, which merely said that Dearborn no longer existed and that it lacked any staff to provide the information. (GC Exh. 18.) Clearly, this letter was not responsive and also misleading. The information request was not only directed to Dearborn but also to its successor. Ellstrom, as president, or any one in management of Precision, could have provided the relevant information. The record shows that Dearborn and Precision failed to honor the information request, which has long been held to be entirely appropriate. In *Bamard Engineering Co.,* 282 NLRB 617 (1987), and the Board held that the union is entitled to the information relating to the relationships between two operations. Under these circumstances, the record here clearly supports a finding of a violation of Section 8(a)(1) and (5). *NLRB v. Acme Industrial Co.*, 385 U.S. 432 (1967).

C. Successorship

The General Counsel and the Union argue that Precision is a "perfectly clear" successor to Dearborn as alleged in the complaint, requiring the "new" company to bargain. The record clearly shows that the Union was the bargaining representative of Dearborn's production and maintenance employees. The record further shows that a substantial continuity exists between Dearborn and Precision, which assumed the bulk of Dearborn's work force, maintained the identical management structure, had the same customers and suppliers and continued the same operation under similar working conditions. Under such a scenario, it is well settled that the present employer is bound by the predecessor's bargaining obligation. *NLRB v. Burns Security Services,* 406 U.S. 272, 277 (1972). In *Fall River Dyeing Corp*., 482 U.S. 27, 43 (1987), the Court, citing Burns, held that the question is factual in nature and based on the totality of the circumstances, stating:

> Hence, the focus is on whether there is "substantial continuity" between the enterprises. Under this approach, the Board examines a number of factors: whether the business of both employers is essentially the same; whether the employees of the new company are doing the same jobs in the same working conditions under the same supervisors; and whether the new entity has the same production process, produces the same products, and basically has the same body of customers.
>
> . . . .
>
> In conducting the analysis, the Board keeps in mind the question whether "those employees who have been retained will understandably view their job situations as essentially unaltered." See *Golden State Bottling Co.,* 414 U.S., at 184, 94 S. Ct., at 425.

Here, the record shows that Dearborn did not completely close its doors on April 19, 2001, but that it continued to operate with about five or six employees in order to finish its production commitments. For example, Desmond Hanson, a production employee, continued to work for Dearborn until June 26, 2001. Another employee, Ed Wojtan worked for Dearborn until May 19, 2001.

On May 10, 2001, Precision came into existence with the signing of its articles of organization (CP Exh. 5). On May 11, 2001, the Operating Agreement of Precision was signed by its organizers, including Ellstrom as president. On July 16, 2001, Precision began its operations, with the employment of several Dearborn employees at the same location as Dearborn with the same machines and equipment. Ellstrom was the president of Dearborn and is the president of Precision. William Valentine was vice president for operations at Dearborn and is the same at Precision. On August 6, 2001, the number of production employees at Precision had increased to 12, all of who had been employed as unit employees at Dearborn. (GC Exh. 34.) They perform the same work and are employed in the same capacities as they did at Dearborn. For example, Richard Fraser worked as bench hand at both entities, Dan Hale as lap hand, Jim Mecklenburg as lathe hand, and Steve Mesino as surface grinder etc. (GC Exhs. 10, 34.) By August 17, 2001, Precision employed 16 production employees, all except 2 had come from Dearborn.

Even the majority of the professional and clerical positions, which were nonunit employees, came from Dearborn. More precisely, the record shows the identities and the job titles of the 16 professional employees, including the president and vice president, at Precision who held similar positions at Dearborn.

The products of Precision are the same as those produced by Dearborn, they are manufactured by the same machines, by the same process, and sold to the same customers. Documentary evidence, as well as the testimony of Ellstrom, show that pursuant to a bill of sale, dated December 5, 2001, Dearborn's machinery was sold to Precision, and that the list of assets and equipment at Precision at its new location at N. Haggerty Road in Canton was identical to the equipment at Dearborn, except for two items, namely a compressor and air conditioner. (GC Exh. 30.) Moreover, the products, which Precision manufactures on the equipment, are the same as those produced by Dearborn. They are precision gages used in the automobile industry. The record reveals in great detail that Dearborn and Precision produced such items as electronic fixture gages, functional fixture gages, air electronic fixture gages, open orifice air spindles, rings, and snaps, as well as indicator fixture gages, and Datastar gauging and computer gauging SPS systems. (GC Exh. 21.) Finally, the suppliers and customers are virtually the same. The record shows the identity of 112 customers of Precision who, with the exception of Pullman, were also customers of Dearborn (GC Exh. 24). Similarly, Precision received products from the same 54 suppliers who also supplied their products to Dearborn. (GC Exhs. 12, 35.)

Accordingly, I find that the record fully supports the allegations in the complaint that Precision is a successor employer to Dearborn. *Fall River Dying Corp. v. NLRB*, 482 U.S. 27, 43 (1987). Precision has accordingly an obligation to recognize and bargain with the Union. The Respondent was well aware of the Union's persistent efforts to bargain since it first learned of Dearborn's plant closure and certainly from the Union's formal request of October 17, 2001. Its refusal and failure to bargain violated Section 8(a)(1) and (5) of the Act. *MV Transportation*, 337 NLRB No. 129 (2002).

The General Counsel and the Union further submit that Precision is a "perfectly clear" successor to Dearborn under Bums, supra, prohibiting the successor from unilaterally changing the employees' working conditions. Under the "perfectly clear" doctrine, an employer may have clearly expressed to the employees its intent to keep them employed in the unit at the successor company. In this regard, the record shows that Ellstrom and Valentine had told several employees during the wind-down period at Dearborn that they might be retained as employees. For example, Ed Wojtan, employed by Dearborn as laborer until May 19, 2001, testified that Ellstrom and Valentine told him and Steve Mersino repeatedly that they would be rehired by the new company. But he also testified that, aside from a temporary paint job, he was never rehired by Precision. Desmond Hanson, employed in the balance department for air gauging, similarly testified that Ellstrom indicated to him and others that he was looking into getting some investors interested in getting another company going. Hanson and Mersino were rehired by Precision following a 5-week hiatus between the layoff from Dearborn and employment at Precision. Hanson had repeated contacts with Valentine or Ellstrom during that period and was told to stay in contact because things were progressing to get a new company going. When he reported for duty at Precision, he, like other employees, filled out an employment application form. (GC Exh. 19.)

While the record does not show that Respondent Precision communicated to its work force that it would condition their employment at Precision on changed working condition, it also does not show that it expressed its intent to retain a majority of the Dearborn employees. The vague assurances made by Ellstrom and Valentine to the two or three employees (one of whom was not retained) is not sufficient to show the Respondent's intent to retain the predecessor's employees. Indeed, at the time Dearborn was winding down its business and was controlled by the Bank, management had no assurance that investors would ultimately support the continuation of the business, so that management was hardly in a position to make any assurances to the employees of their continued employment. Moreover, the Respondent altered the working conditions for the employees. For example, at the time employees were hired they were only informed of their hourly wages, which in some instances were different from those at Dearborn, and that they would receive some type of health care coverage, which was not necessarily the same as that at Dearborn. Precision distributed its policy manual at a meeting on August 23, 2001, which reflected the changed working conditions for the employees. (GC Exh. 20.) At that time Precision had not yet rehired its full complement of employees. Although the record clearly shows that Precision was a successor to Dearborn, I cannot find that it is a "perfectly clear" successor as defined by Board law. While the Respondent is not required to continue the preexisting terms and conditions of employment, it has an obligation to recognize and bargain with the Union, UAW Local 157, as the exclusive representative of the unit, "all production and maintenance employees employed at the [company's location], including shipping and receiving employees, and truck drivers; but excluding office clerical employees, guards and supervisors as defined in the Act."

Ellstrom, as president of Dearborn and Precision, was fully aware of the unfair labor practices of both entities. Precision is accordingly liable for all violations of the Act. *Golden State Bottling Co. v. NLRB,* 414 U.S. 168 (1973).

Conclusions of Law

1. At all material times, Respondent Dearborn has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. At all material times, Respondent Precision has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Charging Union has been a labor organization within the meaning of Section 2(5) of the Act, and has been the exclusive collective-bargaining representative of the employees of the Respondent, in the following unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All production and maintenance employees employed by Respondent at its facility, including shipping and receiving employees, and truck drivers; but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

4. Respondent Dearborn closed its plant without giving prior notice to the Union and without giving the Union an opportunity to bargain about the effects of the plant closure, in violation of Section 8(a)(1) and (5) of the Act.

5. Respondent Dearborn and Respondent Precision violated Section 8(1) and (5) of the Act, by failing and refusing to com-

ply with the Union's information requests of April 20 and October 17, 2001, which related to the Union's performance of its duties as the exclusive bargaining representative of the unit.

6. Respondent Precision, as successor to Respondent Dearborn failed and refused to recognize and bargain with the Union as the collective-bargaining representative of the employees in the unit described above, in violation of Section 8(a)(1) and (5) of the Act.

7. Respondent Precision was aware of the unfair labor practices of Respondent Dearborn and is responsible for the unlawful conduct.

8. The unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in an unfair labor practice within the meaning of Section 8(a)(5) and (1) of the Act, it must be ordered to cease and desist therefrom, and take certain affirmative action designed to effectuate the policies of the Act.

It is necessary, in order to effectuate the purposes of the Act, to require the Respondent to bargain with the Union concerning the effects of the closing of its operation on its employees, and to reduce to writing and execute an agreement as a result of the bargaining. It is further necessary that the Respondent be ordered to comply with the Union's information requests and to recognize and bargain in good faith with the Union.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[12]

ORDER

The Respondent, Precision Gage/Dearborn, LLC, Garden City and Canton, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to notify the Union about the plant closure and to bargain about its effects on the employees with the Union, as the exclusive bargaining representative of the employees in the following unit:

> All production and maintenance employees employed by Respondent at its facility, including shipping and receiving employees, and truck drivers; but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

(b) Failing to comply with the Union's information requests.

(c) Failing and refusing to recognize the Union and to bargain collectively with the Union as the collective-bargaining representative of the above described unit of employees.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Recognize the Union and, on request, bargain collectively and in good faith with the Union as the exclusive bargaining representative of the employees in the above described unit, concerning wages, hours, and working conditions, and bargain about the effects of the plant closure on the employees and, on reaching an agreement, sign and execute the agreement.

(b) Comply with the Union's information requests contained in its letter of April 20 and October 17, 2001.

(c) Within 14 days after service by the Region, post at its facility in Canton, Michigan, copies of the attached notice marked "Appendix."[13] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that during the pendency of these proceedings the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 18, 2001.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. November 4, 2002.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail or refuse to give proper notice to the Union about the plant closure, or refuse to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit about the effects of the plant closure on the employees.

WE WILL NOT refuse to recognize and bargain with the Union as the collective-bargaining representatives for the employees in the unit.

WE WILL NOT refuse to comply with Union's information requests.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of their rights under

[12] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[13] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Section 7 of the Act.

WE WILL recognize the Union and on request, bargain collectively and in good faith with the Union as the exclusive bargaining representative of the employees in the above-described unit, concerning wages, hours, working conditions, and bargain about the effects of the plant closure on the employees and, on reaching an agreement, execute and sign the agreement.

WE WILL furnish the Union with the information requested in the letters of April 20 and October 17, 2001.

PRECISION GAGE/DEARBORN, LLC